IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8202 OF 2006

B.Chandrika Sadashivan ..Petitioner

Vs.

Malti Swayamprabhu Shah ..Respondent

Mr.Sandesh D. Patil for the petitioner

CORAM : A.P.DESHPANDE, J
DATED : 21ST DECEMBER, 2006

P.C.:

1. A suit was filed by the respondent against the petitioner. The petitioner / defendant filed written statement but, thereafter, did not participate in the proceedings and hence, after recording the plaintiff's evidence which was without any rebuttal, a decree was passed on 31.8.05.

2. As there was a delay in filing of an appeal, an application for condonation of delay was filed before the first Appellate Court, seeking condonation of delay of 322 days. In the application seeking condonation of delay, the only ground that is sought to be made out is that the counsel had assured the petitioner in the year 2002

that he will be looking after the matter and as and when the presence of the petitioner would be required, he would intimate the petitioner. Besides blaming the counsel, nothing has been stated as to why the petitioner did not try to contact the counsel for a period of about 4 years. The first appellate court has held that the petitioner has failed to show sufficient cause for condonation of delay. It is also observed that even the date on which the petitioner claims to have been served with the notice in the regular Darkhast, is not stated in the application, without which it is not possible to ascertain the date of knowledge.

3. Taking overall view of the matter, the first appellate court has taken a possible view that the petitioner has failed to show sufficient case for condonation of delay and thus, proceeded to reject the application.

4. Perused the order. No interference is called for. In the result, writ petition is summarily dismissed.

(SHRI A.P.DESHPANDE, J)